

JOANN BREESE)	
Claimant)	
VS.)	
)	Docket No. 231,626
AMERI-KART CORP.)	
Respondent)	
AND)	
)	
CNA INSURANCE COMPANIES)	
Insurance Carrier)	

Claimant alleges that on January 20, 1998, she accidentally slipped on some plastic shavings and fell to the floor injuring her lower abdomen and upper left leg. Respondent and its insurance carrier contend that claimant faked the accident and injuries. In the event the claimant is truly injured, the respondent and its insurance carrier contend the injuries were intentional and, therefore, not compensable.

After listening to claimant and four of her coworkers testify, Judge Clark found claimant's version of the alleged accident to be credible and awarded her preliminary hearing benefits. In this instance the Appeals Board gives some deference to the Judge's determination of claimant's credibility as he was in the position to observe her testify and assess her demeanor.

The Appeals Board finds that claimant sustained personal injury by accident arising out of and in the course of her employment with the respondent on January 20, 1998.

As provided by K.S.A. 1997 Supp. 44-534a, the above finding is not binding but subject to modification upon a full hearing on the claim.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated May 21, 1998, entered by Administrative Law Judge John D. Clark should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 1998.

BOARD MEMBER

c: Robert E. Shaver, Wichita, KS
D. Steven Marsh, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director